

EEC – DEP - DOW
Administrative Regulation Briefing Sheet
401 KAR Chapter 8 – Public Water Supply
Proposed regulatory amendments
March 2017

The Division of Water (“the Division”) proposes amendments to fifteen administrative regulations in 401 KAR Chapter 8 – Public Water Supply.

- **401 KAR 8:010** - Definitions
- **401 KAR 8:020** – Public and semipublic water systems; general provisions
- **401 KAR 8:022** - Sanitary surveys
- **401 KAR 8:030** – Water treatment plant and water distribution systems
- **401 KAR 8:040** – Laboratory certification
- **401 KAR 8:050** – Drinking water program fees
- **401 KAR 8:070** – Public notification
- **401 KAR 8:075** – Consumer confidence reports
- **401 KAR 8:100** – Design, construction, and approval of facilities
- **401 KAR 8:101** – Approval timetable for 401 KAR Chapter 8
- **401 KAR 8:150** – Disinfection, filtration, and recycling
- **401 KAR 8:250** – Inorganic and organic chemical sampling, analytical techniques, and maximum contaminant levels
- **401 KAR 8:510** – Disinfectant residuals, disinfection by-products, and disinfection by-product precursors
- **401 KAR 8:550** – Radionuclides
- **401 KAR 8:600** – Secondary standards

The Division of Water has delegated authority for the implementation and enforcement of 40 CFR Parts 141 and 142 via the regulations in 401 KAR Chapter 8. *Any changes to the regulations in 401 KAR Chapter 8 will be subject to approval by the US EPA.*

Background

401 KAR 8:010 establishes definitions for 401 KAR Chapter 8. The proposed amendments will remove an outdated Executive Order, and add a definition for submetering. The regulation was last amended in 2009.

401 KAR 8:020 establishes the regulation and control of water purification for public and semipublic use. The proposed amendments will correct references to 40 CFR 141 and 142, update notification methods to include electronic reporting, add duration of treatment with type and amount of chemicals added, make advisory language consistent throughout the Chapter, add advisory issuance to operations plans, establish minimal reporting requirements so that the waiver requirement can be stricken, and update Materials Incorporated by Reference (MIRs) to their current versions. The regulation will also add an exemption for submetering if the system meets certain requirements. This regulation was last amended in 2010.

401 KAR 8:022 establishes the requirements for conducting sanitary surveys for regulated water systems. The only proposed amendment will remove an outdated Executive Order. This

regulation was last amended in 2009. ***This technical amendment can be accomplished with a letter to the LRC.**

401 KAR 8:030 establishes standards for the staffing and classification of water treatment plants and distribution systems. The proposed amendments will remove an outdated Executive Order. This regulation was last amended in 2010. ***This technical amendment can be accomplished with a letter to the LRC.**

401 KAR 8:040 establishes procedures for certification of commercial or water system laboratories to test for drinking water contaminants. The proposed amendments will remove an outdated Executive Order, change "Performance Evaluation" to "Proficiency Test", and change "analysis category" to "method analyte pair". These changes will clarify testing requirements and align them with current practice. This regulation was last amended in 2010.

401 KAR 8:050 establishes drinking water program fees. The only proposed amendment will remove an outdated Executive Order. This regulation was last amended in 2009. ***This technical amendment can be accomplished with a letter to the LRC.**

401 KAR 8:070 establishes requirements for public notification if a public water system violates a provision of 401 KAR Chapter 8 by referring to one C.F.R. The Division proposes **REPEALING** this regulation and combining the language into 401 KAR 8:075 (below). This regulation was last amended in 2010.

401 KAR 8:075 establishes the requirements for consumer confidence reports and when they must be submitted to the Cabinet. The Division proposes removing an outdated Executive Order, renaming the regulation "Consumer confidence reports and public notification", and adding the language from 401 KAR 8:070 above. This regulation was last amended in 2009.

401 KAR 8:100 establishes design plan requirements for construction and modification of facilities that deliver potable water for public or semipublic use. The Division proposes changing the name of the regulation to "Design, construction, and approval of facilities and approval timetable for 401 KAR Chapter 8" and combining the language from 401 KAR 8:101 (below) into this regulation. The regulation needs technical amendments to correct several CFR citations and remove a Kentucky regulation that no longer exists. The Division also proposes amendments to reduce the number of plans to be submitted and one of them in electronic format, clarify conditions (notification process, treatment procedures), update MIRs, and *potentially* update the 5-Mile Policy (riverbank filtration/groundwater with separate set of requirements, or remove policy application to groundwater; develop measurement standards or variance procedure). This regulation was last amended in 2011.

401 KAR 8:101 – establishes approval timetables for 401 KAR Chapter 8. The Division proposes **REPEALING** this regulation and combining it with 401 KAR 8:100 (above). This regulation was last amended in 2007.

401 KAR 8:150 – this regulation establishes requirements for the disinfection, filtration, recycling, and testing of drinking water in public or semipublic water systems that use surface water or groundwater that is not under the direct influence of surface water. The only proposed amendment will remove an outdated Executive Order. This regulation was last amended in 2010. ***This technical amendment can be accomplished with a letter to the LRC.**

401 KAR 8:250 establishes requirements for inorganic and organic chemical sampling, analytical techniques, and maximum contaminant levels. The Division proposes renaming this regulation "Inorganic and organic chemical sampling, analytical techniques, maximum contaminant levels, radionuclides, and secondary standards" and combining the language from 401 KAR 8:550 and 8:600 (below) into this regulation. This regulation also needs a technical amendment to remove an outdated Executive Order. This regulation was last amended in 2010.

401 KAR 8:510 establishes requirements for disinfectant residuals, disinfection byproducts, and disinfection byproduct precursors. The only proposed amendments are technical and would remove an outdated Executive Order. This regulation was last amended in 2010. ***These technical amendments can be accomplished with a letter to the LRC.**

401 KAR 8:550 establishes the requirements for sampling and testing for radionuclides and establishes maximum contaminant levels for safe drinking water. The Division proposes **REPEALING** this regulation and combining its language into 401 KAR 8:250 (above). This regulation was last amended in 2010.

401 KAR 8:600 establishes "secondary standards" or maximum contaminant levels and sampling/testing and treatment requirements for contaminants that do not have a direct impact on the health of consumers, but may discourage the utilization of drinking water or discredit the supplier. The Division proposes **REPEALING** this regulation and combining its language into 401 KAR 8:250 (above). This regulation was last amended in 2009.

Necessity

The majority of these regulations are required for Kentucky to maintain primacy over its Safe Drinking Water program. All of the regulations will remain consistent with 40 CFR Parts 141 and 142, and will not be more stringent than the federal regulations. The Division will also retain its flexibility in addressing public and semipublic water supply issues where federal regulations allow. Technical amendments to four regulations will remove outdated references to an Executive Order, correct inaccurate citations to federal and Kentucky administrative regulations, and can be accomplished by a letter to the LRC without the necessity of going through the KRS 13A process. The repeal of four regulations and reincorporating their language into existing regulations will reduce the number of regulations in this Chapter from 18 to 14. Since the amendments will not change substantive standards, but will align several processes with current practice, update materials incorporated by reference, and establish electronic processes, there should be no additional costs for the Division or associated with compliance for the regulated community.

